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# INTERIM

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A REPORT OF INTERIM ACTIVITY . . . MONTANA LEGISLATIVE COUNCIL . . . HELENA

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MONTANA STATE  
LEGISLATIVE COUNCIL

This is the first of what may become a regular monthly newsletter summarizing interim legislative activity. The Legislative Council directed a six month trial period to determine the usefulness of an interim newsletter. We hope this newsletter will provide timely summaries of all committee activities and notice of meetings scheduled. In addition, other items of special interest to legislators will be included from time to time. The reports in the newsletter will be as concise as possible. If you are interested in further information, please contact the legislative agency involved.

Please consider this your newsletter. Let us know what you think about it. We will welcome any comments, criticisms, or suggestions on how to make "The Interim" better suit your needs. Before the six months have expired, we will send you a questionnaire to determine how well the newsletter has met your needs.

## LEGISLATIVE COUNCIL

### NEW ROLL CALL SYSTEM INSTALLED

A computerized roll call system has been installed in the House of Representatives. The system will automatically "remember" the votes on each bill, eliminating the necessary input of each name for printing in the daily journal. An identical system will be installed in the Senate prior to the 1979 session.

### ERRORS FOUND IN SESSION LAWS

Please check your 1977 Session Laws to see that Volume I contains text through page 1152, and that Volume II contains text pages 1153 through 2339. We've found some problems in a few volumes and want to replace any that are incorrectly bound. Notify the Legislative Council and we will send you a replacement.

ROSIE WEBER ANNOUNCES  
PLANS TO RESIGN

Rosie Weber, Executive Director of the Legislative Council since 1971, has announced that she will submit her resignation to the Legislative Council at its December 5 meeting. Rosie will be leaving sometime between March and June. She cited a number of personal considerations that led to this difficult decision.

LEGISLATURE MAY  
CONSIDER RULES ADOPTED  
BY SUPREME COURT

In an order dated December 29, 1970, the Montana Supreme Court adopted rules for disqualification and substitution of judges pursuant to Article VII, Section 2 of the Montana Constitution (1972). Under that provision the newly adopted rules are subject to disapproval by the legislature in either of the two sessions following promulgation. The rules appear at 34 State Reporter 26 (1977) and Volume 7, R.C.M. 1947, p. 33 (1977 Cumulative Supplement).

CODE COMMISSIONER

The initial legal work has been completed on 39 of the proposed 50 titles that will comprise the Montana Code Annotated 1979. As titles are finished, they are being sent to agencies that administer the law or to attorneys in private practice for review. Comments to date seem to indicate that everyone agrees the new arrangement is far superior to the present one. Plans are to begin sending portions of the proposed new code to the printer after the first of the year in order to meet the July 1, 1978, publication date. All bills drafted for the 1979 session will use the new code numbers, so the proposed code as published in 1978 must necessarily be widely circulated. Four indexers assure the public that the index to the new code will be much more useable than the present index. The index will be updated after each legislative session. The present index has not been updated and integrated for 30 years.

INTERIM SUBCOMMITTEES

WATER RIGHTS

In its July and August meetings, the Subcommittee on Water Rights studied the basic features of western water law with the help of two eminent law professors, Al Stone and Frank Trelease. On September 30 and October 1 the subcommittee toured areas on the lower Powder River where the DNRC is now developing recommendations on existing rights. The sub-

committee also studied the department's methods and progress in pursuing this work. On October 22, the committee met with Judge W. H. Lessley to hear his views of Montana's water law problems. The group also heard proposals from interested persons. At a meeting on December 10, plans will be made for a series of public hearings to be held next winter. These hearings will be held in Miles City, Livingston, Glasgow, Dillon, Kalispell, and Hamilton. Watch for dates of hearings in your area.

#### HUMAN SERVICES

At its first meeting in July the subcommittee on Human Services reviewed human service agency reorganizations in other states and heard pledges of cooperation with the study from executive agency representatives. The committee met October 7 and heard legislators from Oregon, Utah, and Idaho report on reorganization efforts in those states from the legislative perspective. The subcommittee instituted a broadbased series of questionnaires designed to elicit information from human services administrators, providers, client groups, and legislators. Information gathered from these questionnaires will aid in preparation of draft legislation at a December 4 meeting. The drafts will then be submitted to critical review by interested persons.

#### STATE LEGAL SERVICES AND ELECTION LAWS

The Subcommittee on Legal Services and Election Laws held its first meeting August 27. The subcommittee directed staff to prepare an analysis of existing election laws with recommendations for revising those laws. The subcommittee also directed that all attorneys serving state government be identified as to their service status and duties so judgments can be made concerning the best way to organize the provision of legal services to the state. The subcommittee held its second meeting November 5. The subcommittee directed staff to prepare the first draft of a revised election code to be reviewed by the subcommittee at their next scheduled meeting January 7. The draft will be prepared in accordance with general recommendations made in a 1973 interim study of local election laws. Those recommendations were aimed at making elections more efficient and convenient. The subcommittee also reviewed a progress report on the organization of state legal services in the executive branch. The final results of

a survey of all attorneys working in and for the executive branch will be completed for the January 7 meeting.

#### LOCAL GOVERNMENT LAWS

The Subcommittee on Local Government met in Miles City October 14 at its regular monthly meeting to continue a thorough comparison of existing local government law and the revision proposed in HB 122. This side-by-side comparison will occupy the subcommittee at its meetings through February. Meetings have been scheduled December 16 in Kalispell, January 14 in Havre, and February 17 in Lewistown. Senator Larry Aber has been appointed to replace Senator Bob Brown who resigned.

#### LEGISLATIVE IMPROVEMENT

The following preliminary recommendations were made by the committee at an October 8 meeting: 1) hold party caucuses earlier, suggest November 17-18, 1978, with an orientation session immediately following; 2) announce committee assignments 10 days after caucus; 3) request Governor's bills be prefiled as committee sponsored bills and printed by December 1, assigned to committee by presiding officers, then distributed to committee members for review prior to 1979 session; 4) use of a consent calendar for "noncontroversial" bills; and 5) allow co-sponsored bills by a House and a Senate member. A complete review of the work flow both during a session and in the interim has been made by the committee.

At the January 6 meeting, the agenda includes consideration of the committee meeting block system, which sets aside committee days for hearings and session days for floor work; complete review of bill deadlines; selection of interim studies and interim committee membership; and format of conference committee reports. Comments or suggestions will be welcomed by the committee.

#### EDUCATION

The second meeting of the Subcommittee on Education was held in October. The subcommittee heard testimony from vocational education administrators and community college presidents and trustees. The next meeting is tentatively scheduled for January 21 to further consider vocational education, community college governance, and Montana's historic records.

## SUBDIVISION LAWS

At a meeting on September 29, the Subcommittee on Subdivision Laws reviewed the history of Montana's laws on subdivision of land and discussed a broad range of issues related to those laws. The subcommittee held two public informational hearings in Billings on October 28 and in Missoula on November 8.

## COAL TAX OVERSIGHT

The Coal Tax Oversight Committee held a two-day meeting in Billings September 10 and 11 to gather information for its study of how the coal tax trust fund and other state funds could be invested to promote low- and middle-income housing and assist young people to enter agriculture and business (SJR 2 and 44). Forty witnesses -- including bankers, realtors, builders, and board members -- attended the meeting and discussed the strengths and weaknesses of the Board of Housing's low-income mortgage repurchase program. At the meeting's close, the board requested the Coal Tax Oversight Committee to suggest ways in which to improve the administration of the program.

The Board of Investments attended the second day's meeting and presented its position and suggestions on the investment of state funds to achieve social goals. The committee plans detailed examination of some of these suggestions at the next meeting.

The committee also unanimously approved a resolution recommending that the Coal Board grant funds to the Departments of Community Affairs and State Lands for a joint study to develop "objective criteria" for determining direct and secondary coal impact.

The committee plans to hold a joint meeting with the Coal Board and the Legislative Finance Committee in January to discuss this resolution and the report on coal grants prepared by the Office of the Legislative Fiscal Analyst.

## REVENUE OVERSIGHT

At its November 17 meeting, the Revenue Oversight Committee reviewed progress reports from the Department of Revenue on pending court cases and on research data being gathered for the committee's study of the taxation of financial institutions and the replacement of the property tax on motor vehicles with fees. The committee also discussed

several administrative rules proposed by the department and suggested various changes to make the rules more understandable.

Continuing its study of alternate ways to tax timber, the committee heard critiques of proposed yield tax and severance tax by staffs of the Department of Revenue, Department of Natural Resources, Legislative Council, timber owners, and interested legislators. The committee was particularly concerned with how the adoption of a yield or severance tax would affect local governments' bonding power, officials' salaries, and tax base and requested additional research.

Graphs showing the mill levies and net proceeds tax in Silver Bow County were thoroughly discussed in considering the appropriate level of gross proceeds tax on metal mines, another study assigned to the committee. Members asked for detailed analysis of the total tax burden on minerals in other states for the next meeting, which is planned for early January.

#### INDIAN LEGAL JURISDICTION

A committee has been appointed to oversee the Legal Jurisdiction Project in the Governor's office and to hold a public hearing on each reservation, suggest alternative solutions, identify common bonds between Indian and non-Indian people, and propose legislation. Establishment of this committee was directed by H.B. 145. The committee met October 3 to organize. Senator Bill Lowe was elected chairman, and Representative Tom Conroy was elected vice chairman. Various committee members were then assigned to meet with tribal leaders to arrange public hearings on the reservations.

The committee held its second meeting November 7. Representatives from several departments of state government reported on jurisdictional conflicts that have arisen in relation to their departments and the response of the departments to these conflicts. The committee decided to hold its first hearings in December on the Rocky Boy and Ft. Belknap Reservations. No dates have yet been set, but all legislators will be notified of hearings by mail.

#### CAPITOL BUILDING AND PLANNING

The Capitol Building and Planning Committee met on August 22 to review the status of the

master plan for the Capitol complex and to begin to assess future needs. The greatest problems seem to be how best to accommodate the needs of the Supreme Court, State Law Library, State Library, and future Legislative Office space needs. The committee will consider these problems in greater depth at a meeting early next year.

#### ADMINISTRATIVE CODE COMMITTEE

The Administrative Code Committee met May 27, July 15, September 8, and October 12 and is scheduled to meet December 2 to review rules proposed and adopted by the various agencies since the legislature adjourned. The committee held a hearing on the proposed repeal by DCA of rules restricting the use of the occasional sale and intrafamily transfer exceptions to the Montana Subdivision and Platting Act. The department decided not to repeal the rules restricting occasional sales. The committee decided that no express legislative authority existed permitting the Department of Institutions to adopt an alcohol and drug abuse counselor certification program. The Department of Institutions decided against the adoption of a certification procedure following the committee's action. The committee also requested staff to prepare a petition to the Department of Revenue to amend the rule requiring that the sale of food constitute the principal business of a wine license applicant. The staff reviewed and commented extensively on the proposed Attorney General's Model Rules. The committee objected to the vagueness of the code of ethics of the Board of Realtors. A redraft is under consideration by the committee. The Committee concurred in the Revenue Oversight Committee's objections to the requirement that existing structures be brought above code to qualify for an energy conservation tax deduction. The rule was amended to conform to those objections. The legislature responding to a poll conducted by the committee went on record as stating the tax credit for the installation of a wood burning stove, as proposed by the department, is not in accord with their intent. (Senate: 19 FOR, 24 AGAINST; House: 41 FOR, 40 AGAINST) Upcoming problems in the October and November summaries include the adoption of the energy conservation code for new building construction and the designation of Galen State

Hospital as a continuing care facility.

LEGISLATIVE AUDIT COMMITTEE

REPORTS ISSUED

The Legislative Audit Committee met September 19 and November 7, 1977, at the State Capitol.

Financial/compliance audit reports presented to the Legislative Audit Committee were: University of Montana; Montana Arts Council;# Department of Professional and Occupational Licensing; -- Board of Public Accountants;# Department of Administration -- Architecture and Engineering Division;# Department of Administration -- Data Processing Division;# Northern Montana College; Advisory Council for Vocational Education;# Department of Administration;# Office of Commissioner of Higher Education and Board of Regents of Higher Education;# Department of Institutions -- Mountain View School;# Eastmont Training Center; Swan River Youth Forest Camp; Comprehensive Employment and Training Act -- Employment Security Division; Board of Public Education; Missoula County; City of Great Falls; Human Resources Division (2); Human Rights Commission; Equal Employment Opportunity Bureau; and Indian Coordinator. (#Audits conducted by the Legislative Auditor. Other audits were conducted by Certified Public Accountant firms.)

LIAISON COMMITTEE

The Montana CPA Society Liaison Committee met with the Legislative Audit Committee for a joint luncheon meeting on September 19 to discuss the potential and results of the Legislative Auditor's contract audit program.

AUDIT REQUESTED

The Department of Natural Resources and Conservation recently requested that the Legislative Auditor's office conduct a program audit of that department. The Legislative Audit Committee stated that, due to staff limitations, such an audit was impossible at the present time but would be considered in future audit plans. Ordinarily a program audit would not be made of an entire department but, rather, of a selected program within the department, such as water resource management.

CURRENT AUDITS

Audits currently being performed by the Legislative Auditor are:

Financial Compliance - Department of Community Affairs -- Certain Activities of the Human Resources Division; Department of Natural Resources and Conservation; Department of Revenue; Department of Labor and Industry -- Labor Standards Division; Human Rights Division; Personnel Appeals Division; Employment Security Division; Department of Fish and Game; Department of Social and Rehabilitation Services; and Office of the State Treasurer.

Program - Special Education -- Superintendent of Public Instruction; and Oil and Gas Leases, Taxes and Royalties -- Departments of Natural Resources, Revenue, and State Lands.

sunset - Board of Abstractors, Board of Architects, Board of Public Accountants, Board of Real Estate, County Printing Board and Insurance Commissioner.

REVENUE SHARING

At the September meeting, the committee discussed revenue sharing audit requirements in response to a letter from the Governor to Chairman Berke. Federal revenue sharing guidelines require an independent audit of the financial statements of each state agency at least once every three years. Failure to do such audits may jeopardize all revenue sharing funds to the state.

On November 7 the Legislative Auditor presented the Legislative Audit Committee with an audit plan to meet federal revenue sharing guidelines. The committee approved the audit plan and directed the Legislative Auditor to advise Governor Judge of that plan to meet the revenue sharing requirements.

WORKER'S COMPENSATION

The Attorney general made his quarterly report on the worker's compensation investigation to the Legislative Audit Committee.

REPORTS AVAILABLE

Copies of all audit reports are available from the Office of the Legislative Auditor, Room 135, State Capitol, phone number 449-5122.

MEETING

The Legislative Finance Committee met November 18 and 19 at the State Capitol.

MEDICAID

The committee heard a presentation from the Department of Social and Rehabilitation Services concerning a projected deficit in the medicaid program. The department detailed projected economy measures that would serve to reduce the department's projected deficit from \$7.15 million to \$3.194 million. Concern was expressed that the department was planning to spend at a rate exceeding the appropriation.

REVENUE STATUS

The committee was presented a revenue status report of the state general fund as of October 31, 1977. The report from the fiscal analyst's office concluded that total general fund revenues were "on line" in meeting projections. Total coal tax receipts were down both from projections and from last year's collections.

COAL REPORTS

The fiscal analyst's office presented two reports relating to coal impact grants. Grants under consideration by the coal board were reviewed as required by HB 145, and additional information on coal funds made available to coal impact areas was detailed.

BUDGET AMENDMENTS

The staff presented a summary of additional expenditures authorized by the Executive Budget Office beyond the amounts appropriated by the 45th Legislature. As of November 7, 1977, amendments totaling \$4,860,800 and adding 192.17 employees had been approved by the executive.

CONSUMER COUNSEL

LEGISLATIVE  
CONSUMER COMMITTEE

The committee meets as circumstances require to establish policy, authorize expenditures, and consider employment of staff and experts in regulated utility and transportation cases. The committee must meet at least once each quarter but has been meeting more often.

CONSUMER COUNSEL

This year the Consumer Counsel has taken issue with over \$60 million in requested utility rate increases. There is now litiga-

tion concerning FPC natural gas rate decisions and serious substantive issues of law with respect to utility ratemaking. The Consumer Counsel is also litigating over \$3 million in railroad grain rates and has obtained an order from the ICC that Montana railroads rebate approximately \$300,000 in excess charges to Montana grain shippers. This decision is predictably under fire from the railroads. The Consumer Counsel staff is also working on electric utility load studies and plan to report on alternative approaches to utility rates in the near future. Litigation with Mountain Bell is expected. The question is whether the company's rates are proprietary and thus outside the public's right to know. The question of whether the Public Service Commission has jurisdiction over sewer rates, the subject of four unsuccessful bills in the 45th session, has been submitted to the courts for a ruling. The Consumer Counsel staff has resisted proposals by AMTRAK, Frontier Airlines, and local bus lines to curtail service in Montana.

#### ENVIRONMENTAL QUALITY COUNCIL

##### JOB OPENING

Environmental Quality Council currently has a job opening for an ecologist researcher. Requirements are at least a bachelor's degree in ecology, biology, or a related field and 2 years' experience. Salary: \$13,449 to \$16,138.

##### NSF GRANT RECEIVED

The Environmental Quality Council recently received a \$25,000 grant from the National Science Foundation to develop a program which will make more and better scientific and technical information available to legislators. Terry Carmody, EQC Executive Director, would welcome suggestions from legislators on areas where such information is needed.

##### PERLMUTTER RESIGNS

Steve Perlmutter, EQC staff attorney for three years, has resigned to go into private consulting work.

##### COUNCIL MET NOVEMBER 29

In its November 29 meeting, the Environmental Quality Council heard reports from state members of State Lands and Reclamation Division on subjects which arose during the Council's

Colstrip tour in September. John Urth, head of the Department of Natural Resources and Conservation, summarized several proposals now under consideration for expanding the Bonneville Power Administration's role in energy development. The council approved a staff proposal for coordination and research related to energy legislation for the 1979 session.



